IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6341 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NAVA VADAJ-RANIP ZUPADA BACHAVSAMITI

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 6341 of 1992

MR VH DESAI for Petitioner No. 1

MR ND NANAVATI for Petitioner No. 1

MR RM VIN for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 18/08/2004

ORAL JUDGEMENT

1. This petition is filed by Nava Vadaj - Ranip Zupada Bachav Samiti, in which it has ventilated the

grievance on behalf of some hutment dwellers. As per the averments made in the petition, about 1500 families are occupying part of land situated Near Nava Wadaj-Ranip, Old Dholka Railway Line. Since the Railway Administration tried to disturb their possession, the petitioner has filed this petition for protecting the possession of such hutment dwellers.

2. It is the say of the petitioner that, it is not open for the Railway Administration to remove the hutment dwellers under the guise of removing encroachment without there being any unavoidable circumstances. It is also averred in the petition that, the Railway Administration has no right to deprive their residential premises without following the due process of law. As per the averments made in the petition, the hutment dwellers are residing in the disputed law since considerable period and the land in question is not used by the Railway Administration. However, it is mentioned in para 3 of the petition that the railway administration issued notice to the hutment dwellers calling upon them to vacate the land within 15 days. A copy of such notice is also annexed with the petition at Annexure "A".

3. The aforesaid notice was issued under sub-sec.(1) and Clause (b)(ii) of sub-sec (2) of Sec.4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as "the Act"). In the petition, the petitioner has prayed that alternative accommodation may be given to the occupants, who are residing in the land, which belongs to railway administration.

4. Mr.R.M.Vin, learned advocate for the respondents, has pointed out that the petitioner has no locus-standi to challenge the individual notices given to the occupants of the land in question. It is submitted that, even if the occupants have any independent grievances, then they can file substantive petitions in individual capacities. It is submitted by Mr.Vin that, eventhough in the petition, a submission is made that the petition is filed in a representative capacity, no such permission of the Court is obtained and procedure under Order 1 Rule 8 CPC has not been followed. It is also submitted that against the final order, a remedy of an appeal is provided under the Public Premises (Eviction of Unauthorised Occupants) Act.

5. Learned advocate for the respondents has also submitted that, it is not the intention of the Railway Administration to throw away the occupants from the land in question, and they will not be evicted without

following the due process of law.

6. Considering the aforesaid aspect of the matter, it is not necessary to entertain this petition. Even against the final order passed under the Public Premises (Eviction of Unauthorised Occupants) Act, the concerned persons will have a remedy of appeal under the Act. So far as alternative accommodation is concerned, it would be open for the individual occupants to make representation, either by forming an association or in an individual capacity. In such representation the occupants can provide appropriate data and material. The occupant can prefer such representation within a period of four weeks from today. If any such representation is made within the aforesaid period, the Railway Administration may decide the same in accordance with law, on its own merits. It will be open for the Railway Administration also to consider whether alternative land can be given to the occupants or whether the land on which the occupants residing can be regularised. However, all these aspects can be considered by the Railway Administration, and this Court is not expressing any opinion on this point. The Railway Administration may decide the same, as expeditiously as possible, and preferably within a period of three months from the date of receipt of such representation.

8. Subject to what is stated above, this petition is rejected. Rule is discharged. Ad-interim relief, if any, granted earlier stands vacated. No order as to costs.

(P.B. Majmudar, J.)

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